

Corning Painter
Chief Executive Officer

Orion Engineered Carbons LLC
4501 Magnolia Cove Drive, Suite 106
Kingwood, Texas 77345

Direct Phone: +1-281-318-4263
corning.painter@orioncarbons.com

February 26, 2021

Via CDX and Email

Thomas P. Carroll
Acting Director, Air Enforcement Division
U.S. Environmental Protection Agency
MC 2242A
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: *United States v. Orion Engineered Carbons, LLC*, Consent Decree (Case No. 6:17-cv-01660) – Notice of Intent to Assert Claim of Force Majeure – Tenth Supplemental Update

Dear Mr. Carroll:

Orion Engineered Carbons, LLC (Orion) provides this letter in response to EPA's letters dated April 24, 2020, October 21, 2020, and January 25, 2021. EPA's April 24 letter requested updates regarding Orion's March 23, 2020 notice of intent to assert force majeure. EPA's April 24 letter requested an initial response within four weeks and supplemental updates every four weeks thereafter. Orion provided its initial response on May 21, 2020 (the "Initial Response"). This letter is Orion's tenth supplemental update.

Orion appreciated EPA, DOJ, and LDEQ providing the opportunity to meet on February 24, 2021 to further discuss Orion's proposed commissioning schedule. Orion has provided EPA a copy of the presentation from that meeting.

Consistent with Orion's February 8, 2021 conference with EPA and DOJ, Orion understands that EPA and DOJ take the position that there is not currently a dispute between the parties as to the existence of force majeure. Accordingly, EPA and DOJ do not believe it necessary to initiate the Consent Decree's dispute resolution process. Orion continues to utilize best efforts to minimize force majeure delays and to fulfil its obligations under the Consent Decree.

We ask that you treat the redacted portions in the public version of this submittal as confidential business information (CBI) pursuant to 40 C.F.R. Part 2. Orion's updated responses to the questions in EPA's April 24, 2020 letter follow.

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Ivanhoe

1. Clarify the meaning of the term, “pollution control projects required by the CD at [] Ivanhoe.”

No change since Initial Response.

2. Do the PM Early Warning Systems, baghouses and incineration devices necessary to achieve MACT compliance remain operational?

No change since Initial Response.

3. Are any of Orion’s [REDACTED] employees working onsite, and if so, how many?

[REDACTED]

4. What activities are the employees performing? Are they making carbon black?

[REDACTED]

5. Provide any updates received from Defendant's contractors related to COVID-19.

See above under item 3.

6. Provide any updates, orders, or directives from state and local officials related to COVID-19.

The following is a brief summary of orders affecting Orion issued since the ninth supplemental update:

Louisiana

February 10: Governor issues Proclamation 17 JBE 2021 keeping Louisiana in Phase 2 of reopening, continuing the statewide mask mandate, and

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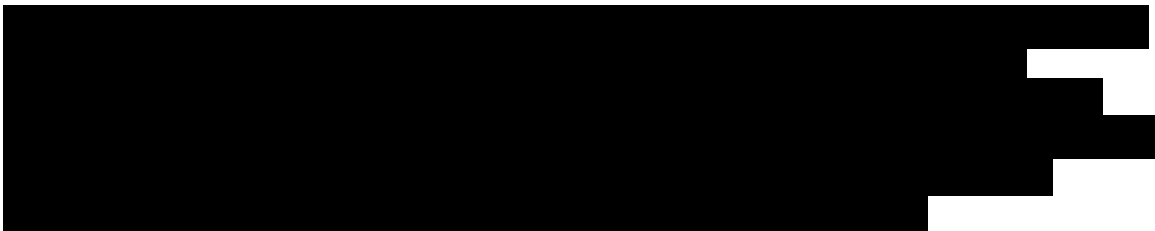
requiring businesses like Orion to maintain at least moderate social distancing between all employees.¹

Governor also issues Proclamation 18 JBE 2021 extending emergency provisions imposing travel restrictions on public employees, suspending in-person shareholder meetings, and imposing a variety of restrictions on the operations of government entities, among other measures.²

LDEQ issues Twentieth Amended Declaration of Emergency and Administrative Order. LDEQ declares that “an emergency exists” and that “measures are necessary to prevent serious threats to life or safety.” The order extends certain regulatory deadlines, among other measures.³

Additionally, the Governor has made clear that “should there be an increase in the number of confirmed COVID-19 cases or should the number of COVID-19 related hospitalizations threaten the ability of the health care system to properly respond, it may be necessary to go back to the full restrictions in the [original] Stay at Home order.”⁴

7. Provide a detailed construction schedule, reflective of the anticipated schedule as of March 1, 2020, (broken out by month), that specifies the work being performed, the number of contractors expected to be on site (noting the name of the company), the anticipated date of arrival of major parts, and any other relevant information.



¹ State of Louisiana, Proclamation 17 JBE 2021 (Feb. 10, 2021), <https://gov.louisiana.gov/assets/Proclamations/2021/17-JBE-2021-State-of-Emergency-Renewing-COVID-19-Resilient-Louisiana.pdf>.

² State of Louisiana, Proclamation 18 JBE 2021 (Feb. 10, 2021), <https://gov.louisiana.gov/assets/Proclamations/2021/18-JBE-2021-State-of-Emergency-COVID-19-Extension.pdf>.

³ Louisiana Department of Environmental Quality, Twentieth Amended Declaration of Emergency and Administrative Order (Feb. 10, 2021), https://www.deq.louisiana.gov/assets/docs/emergency_declarations/TwentiethAmendedDEAOCOVID19.pdf.

⁴ State of Louisiana, Proclamation 17 JBE 2021 (Feb. 10, 2021), <https://gov.louisiana.gov/assets/Proclamations/2021/17-JBE-2021-State-of-Emergency-Renewing-COVID-19-Resilient-Louisiana.pdf>.



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Conclusion

Orion remains committed to working with EPA to fulfill the requirements of the Consent Decree while protecting the health and safety of Orion's employees and contractors. Orion will provide its next update on or before March 26, 2021.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Painter", is positioned above the typed name.

Corning Painter
Chief Executive Officer
Orion Engineered Carbons, GmbH

cc: Kellie Ortega, U.S. Environmental Protection Agency
David Friedland, Beveridge & Diamond, P.C.
Jason Dunn, U.S. Department of Justice
Katherine Abend, U.S. Department of Justice
Celena Cage, Louisiana Department of Environmental Quality
Brandon Williams, Louisiana Department of Environmental Quality
Dwana King, Louisiana Department of Environmental Quality